

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

UNITED STATES OF AMERICA,)	
Complainant,)	
)	8 U.S.C. § 1324a Proceeding
)	Case No. 97A00164
v.)	
)	Marvin H. Morse
DONNY FASHION, INC.,)	Administrative Law Judge
Respondent.)	

**ORDER TO SHOW CAUSE WHY DEFAULT
JUDGMENT SHOULD NOT ISSUE
(November 26, 1997)**

On July 11, 1997, the Immigration and Naturalization Service (INS) served a Notice of Intent to Fine (NIF) on Jung Nam Kim, Owner of Donny Fashion, Inc. (Respondent or Donny).

On September 15, 1997, INS filed a Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). Count I of the Complaint charges Respondent with knowingly hiring/continuing to employ seven (7) named individuals not authorized for employment in the United States and assesses a civil money penalty of \$680 per violation for a total of \$4,760. Count II of the Complaint charges Respondent with failure to prepare and/or to make available for inspection the employment eligibility verification form (Form I-9) for two (2) named individuals, and assesses a civil money penalty of \$400 per violation for a total of \$800. Count III charges Respondent with failure to ensure that employees properly completed section 1, and failed itself to properly complete section 2 of the Form I-9 for thirteen (13) named individuals, and assesses a civil money penalty of \$490 per violation for a total of \$6,370. INS requests a total civil money penalty of \$11,930, and that Respondent cease and desist from violating 8 U.S.C. § 1324a(a)(1)(A) and/or § 1324a(a)(2). Attached as Exhibit B to the Complaint is Respondent's timely request for a hearing dated July 21, 1997.

On September 16, 1997, OCAHO issued a Notice of Hearing (NOH) which transmitted a copy of the Complaint to Respondent. The NOH cautioned that upon failure to file an Answer to the Complaint within thirty (30) days of receipt, "Respondent may be deemed to have waived his/her right to appear and contest the allegations of the Complaint, and an Administrative Law Judge (ALJ) may enter a judgment by default along with any and all appropriate relief."

The Postal Service certified mail return receipt returned to OCAHO confirms that Respondent received the NOH on September 19, 1997. To date, no Answer to the Complaint has been filed.

On November 17, 1997, INS filed a Motion for Default Judgment. The Motion was served on Respondent on November 12, 1997. INS states that Respondent has failed to plead or otherwise defend within thirty days of receipt of said Complaint as required by 28 C.F.R. § 68.9(a).

This Order provides Respondent the opportunity to explain its failure to timely answer the Complaint and invites Respondent to show cause, if any it has, why a final decision and order should not be issued against it in the amount and for the reasons specified in the Complaint.

A response to this Order will be considered timely, if received by me **not later than December 15, 1997**. In such filing, Respondent is obliged to show such cause as it may have as to why it failed to timely file an Answer to the Complaint, and why a default judgment should not issue. The filing must be accompanied by a proposed Answer to the Complaint. Any filing must include a true certificate that a copy has been sent, postage prepaid to INS. In the event that Respondent makes a timely response to this Order, INS may timely file a reply **not later than December 29, 1997**.

SO ORDERED.

Dated and entered this 26th day of November, 1997.

Marvin H. Morse
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the attached Order to Show Cause Why Default Judgment Should Not Issue were mailed first class, and certified mail return receipt requested, as indicated, this 26th day of November 1997 addressed as follows:

Counsel for Complainant

Mimi Tsankov, Esq.
Immigration and Naturalization Service
P.O. Box 2669
New York, NY 10008-2669

Dea Carpenter, Esq.
Immigration and Naturalization Service
425 "I" St. NW, Room 6100
Washington, DC 20536

Respondent

Jung-Nam Kim, President (Certified Mail)
Donny Fashion, Inc.
257 West 39th Street, 7th Floor
New York, NY 10018

Jung-Nam Kim, President
Donny Fashion, Inc.
1350-15 Street, #8-0
Fort Lee, NJ 07024

Office of the Chief Administrative Hearing Officer
5107 Leesburg Pike, Suite 2519
Falls Church, VA 22041

Debra M. Bush
Legal Technician to Judge Morse
Department of Justice
Office of the Chief Administrative Hearing
Officer
5107 Leesburg Pike, Suite 1905
Falls Church, VA 22041
Telephone No. (703) 305-0861